

Decree No. 12-A/80 of 1980

6 February, 1980

Article 1

The People's Republic of Angola shall exercise sovereign rights for the purpose of exploring, conserving, managing and exploiting the natural, biological marine resources of areas of the high seas adjacent to the national territory, up to a distance of 200 nautical miles measured from the legally established baselines, as well as the sedentary species of the continental shelf.

Article 2

1. In the areas defined in the preceding article, it shall be unlawful for foreign vessels to fish, prepare to fish, commit acts prejudicial to fishing or damage or destroy fishing gear legally installed in the sea.
2. For the purposes of this Decree, vessels anchoring, mooring, stopping or hovering in fishing area, except for reasons of *force majeure*, or showing signs of having recently used their fishing gear, shall be deemed to be preparing to fish.
3. For the purposes of this Decree, churning up the waters, employing any other processes to frighten fish or resorting to any manoeuvre or method likely to prejudice fishing shall be deemed to constitute acts prejudicial to fishing.

Article 3

In order to implement the provisions of the preceding articles, the Angolan State has the right to carry out inspections of any foreign vessels found within the limits of the areas defined in article 1 of this Decree.

1. Foreign vessels found within the areas defined in article 1 of this Decree may be inspected by any master, captain or skipper of a vessel or aircraft belonging to State enterprises of the Ministry of Fisheries or the Ministry of Transport and Communications or to the services of State and Defence Security, Internal Order and other maritime control bodies.
2. Where, as a result of inspection, any violation of the provisions of this Decree is ascertained, the offending vessel shall be seized and taken to the nearest port.

Article 5

1. The prohibition laid down in article 2 shall not prevent the Angolan State from granting to foreign vessels, on the basis of negotiations, agreements or contracts concluded by member of the Government of the People's Republic of Angola, authorization to fish in the areas defined in article 1.
2. The Minister of Fisheries shall be responsible for determining which foreign vessels are authorized to fish in the areas defined in article 1 by means of the granting of fishing licences.
3. The Minister of Fisheries shall regulate by executive order the conditions for the issue of fishing licences and the elements covered by them, for instance, the areas and

methods of fishing which may be used, the species or groups of species which may be caught, the size of catches and the periods of time during which such vessels may operate.

Article 6

Foreign vessels authorized to fish in the areas defined in article 1 must:

- (a) fly the corresponding flag, show their registration number in a visible manner and carry the corresponding fishing licence;
- (b) when fishing, comply with the conditions established in the corresponding fishing licence and also with the regulations in force for national vessels engaged in the same kind of fishing in the same areas.

Article 7

Foreign vessels, together with all their tackle, belongings, nets, gear and ancillary craft and any catch, shall be seized by the Inspection authorities and handed over to the harbour-master's office of the first port to be entered after the seizure:

- (a) when they are found to be fishing or preparing to fish without legal authorization in the areas defined in article 1;
- (b) when even with the proper authorization, they do not comply with the obligations and duties laid down in article 5 above;
- (c) when they engage in acts prejudicial to fishing;
- (d) when they have destroyed or damaged fishing gear legally installed in the sea;
- (e) when their crew members have disobeyed or refused to comply with inspection measures.

Article 8

1. The shipowner, captain, master or skipper of a foreign vessel which is fishing or preparing to fish in the areas defined in article 1 without due authorization or which is fishing or preparing to fish in an area, for a species or by a fishing method for which it has no authorization, or which is engaged in, acts prejudicial to fishing, shall forfeit to the State all the catch on board, as well as the fishing tackle 9 and be liable to a fine of Kz 6.000,000 plus an additional Kz 50,000 per ton gross weight.

2. The amount of the fine provided for in the preceding paragraph shall be doubled:

- (a) when the violation takes place within the territorial sea of the People's Republic of Angola;
- (b) when the vessel is fishing for a species during its closed season or for a species the fishing of which is prohibited by the laws of the People's Republic of Angola;
- (c) In the case of recurrent violations.

3. The amount of the fine provided for in paragraph 1 of this article shall be tripled in

cases where explosives or other products or methods are used which cause the destruction of or significantly alter the marine environment.

Article 9

The shipowner, captain, master or skipper of foreign vessels authorized to fish In the areas defined in article I which violate the provisions of article 6 (b) shall be liable to a fine of Kz 120,000.

Article 10

1. The shipowner, captain, master or skipper of foreign vessels authorized to fish in the areas defined in article 1 who does not comply with the quotas or efforts established for him, as well as the regulations in force for national vessels engaged in the same kind of fishing in the same areas, shall forfeit to the State all the catch on board and be liable to a Kz 500,000 fine, plus an additional Kz 5,000 per ton gross weight.

2. The amount of the fine provided for in the preceding paragraph shall be doubled:

- (a) when the violation takes place within the territorial seas of the People's Republic of Angola;
- (b) in the case of recurrent violations.

Article 11

The shipowner, captain, master or skipper of a foreign vessel which damages or destroys fishing gear legally installed in the sea shall, in addition to the obligations to pay compensation for the damage caused, be liable to a fine of Kz 120,000.

Article 12

The shipowner, captain, master or skipper of a foreign vessel which disobeys or refuses to comply with inspection measures by the competent authorities shall, independently of the provisions of the preceding articles, forfeit the catch to the State and be liable to a fine of Kz 600,000.

Article 13

Where violations of this Decree are committed by foreign vessels in possession of a fishing authorization, the penalties set forth in the preceding articles shall be accompanied by temporary or permanent cancellation of the corresponding fishing licence.

Article 14

The authority which detains the foreign vessel shall draft a detailed report of the offence, which shall be delivered within a maximum period of 48 hours to the harbour-master's office of the port where the detained vessel is handed over.

Article 15

The harbour-master's office of the port where the detained vessel is handed over shall immediately take the following measures:

(a) notify the competent office of the Ministry of Fisheries of the occurrence, so that the latter can immediately determine what is to be done with the catch which is liable to spoil.

(b) report the occurrence to the Ministry of Foreign Affairs which, acting through the diplomatic channel, shall take the matter up with the consular representative or the Government of the State whose flag the vessel is flying;

(c) where necessary, revoke the corresponding fishing authorization.

Article 16

1. The detained vessel and all the equipment seized with it shall be held against full payment of the fine or fines and the necessary charges, costs and stamps.

2. While the vessel remains impounded, the person in charge of it shall be allowed to overhaul it and its equipment, under the supervision of the maritime authority. The latter shall not, however, be liable for any loss or damage which may result from the lack of adequate maintenance.

Article 17

1. The harbour authority shall be competent to impose the fines provided for in the preceding articles.

2. The harbour authority shall notify the violator, so that he can make voluntary payment of the fine and other charges, as appropriate, within a time limit of 10 days.

3. If the violator makes voluntary payment, the harbour-master shall lift seizure of the vessel, once the representative of the Ministry of Fisheries has, where necessary, determined what should be done with the catch on board.

Article 18

1. If the time limit for voluntary payment of the fine elapses without payment taking place, or if the violator states that he does not intend to make voluntary payment, the harbour-master shall refer the corresponding reports to the competent law court for a decision, such referral amounting to prosecution by the Public Prosecutor's Office.

2. The district law-court which has jurisdiction over the port where the vessel is impounded shall be competent to try the case.

Article 19

1. Once he has received the report and unless he must order its return for correction or amplification or its shelving for lack of grounds for prosecution, the judge shall order that a note be attached from the register of maritime offences, should there be two reports, and shall set the trial date for one of the following 10 days.

2. By five days prior to the trial, the Public Prosecutor's Office, the witnesses and the accused shall be officially notified and the latter should be warned that he must indicate at this point whether he wishes defence witnesses to be notified or that he can bring them at the opening of the trial.

3. If the accused cannot be found, he shall be notified by means of a summons affixed,

at last eight days prior to the trial, to the door of the harbour-master's office, indicating the identity of the accused, the nature of the alleged violation, the date of the trial and the fact that he may bring witnesses for his defence.

4. Crew members of foreign vessels who must appear shall be summoned to the corresponding consular authority or, in its absence, be notified by means of a summons affixed to the door of the harbour-master's office.

Article 20

1. The number of witnesses who may be brought by either the prosecution or the defence may not exceed three for each punishable offence.

2. The witnesses chosen by the accused shall be notified without any need for an official communication.

3. The examination of witnesses by requisition shall not be allowed.

Article 21

1. The trial shall open with the presentation of the written plea by the accused, his appointed counsel or, in the event of default, by the defence counsel appointed compulsorily for him.

2. The accused shall then be heard, if he appears, and the prosecution and the defence shall give evidence, following which a decision shall be taken and recorded in summary form.

3. If the accused does not appear, he shall be deemed to have been notified of the verdict through publication of the decision.

4. An adjournment shall be allowed only in the event of the duly justified absence from the proceedings of a person who must be heard and whose testimony is indispensable.

Article 22

1. Convictions for maritime offences shall be entered in the corresponding register held by the competent department of the Ministry of Transport and Communications.

2. Voluntary payment of the fine pursuant to article 16 shall, for the purposes of recurrent violations, be deemed equivalent to a judicial conviction and shall be entered in the register referred to in the preceding paragraph.

Article 23

1. Once a verdict has been reached in court, the following procedures shall be observed:

(a) In the event of acquittal, the vessel and all the impounded equipment shall be handed over to the shipowner, captain, master or skipper of the vessel, together with, in convertible currency, the proceeds of the sale of the catch if this has been ordered, in which case the State shall not be liable for any damage or loss of profit resulting from either the sale or the seizure;

(b) in the event of conviction, and if payment of the sums which the violator was sentenced to pay does not take place within 10 days from when the verdict was

reached in court, the Public Prosecutor's Office attached to the court shall order mandatory collection.

2. Mandatory collection shall follow the procedures for mandatory collection of costs, the impounded property being of course liable to seizure. Should the latter prove insufficient, any other known and disposable assets of the person liable shall be seized.

3. The amounts of the fine or fines, charges, costs and stamps, as well as the costs of mandatory collection, shall be covered primarily by the proceeds of the sale of the seized goods.

Article 24

Payment of the fines to which the violator is sentenced, either by the court or by the harbour authority, pursuant to article 16, shall always be made in freely convertible currency.

Article 25

1. An appeal against the final verdict may be lodged only if the fine or fines imposed exceed Kz 12,000,000 and if the prosecution or the defence state expressly, prior to the accused's examination, that they are not waiving the right of appeal.